

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 488 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

RATILAL P DESAI

Versus

STATE OF GUJARAT,

Appearance:

MS PJ DAVAWALA for MR KN RAVAL for Petitioner
MR ND GOHIL for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/09/96

ORAL JUDGEMENT

1. The petitioner, a retired employee of the Revenue Department of the State of Gujarat, filed this petition before this Court in which the prayer has been made for issuance of a writ of mandamus or any other appropriate writ, direction or order directing the respondent to treat the petitioner as having been absorbed from 1-8-1949 and to grant the petitioner all the

consequential benefits following there from including the benefit of the seniority, promotion and consequent refixation of pay and pension.

2. During the course of argument, the counsel for the petitioner has made only contention that the qualifying services for pension and other retirement benefits of the petitioner should have been taken from 20th July, 1945 to 15th March, 1948 and from 16th November, 1948 upto the date of retirement on superannuation. The counsel for the petitioner contended that the specific order was given by the Gujarat Civil Services Tribunal, Gandhinagar in the appeal filed by the petitioner being no.485/80 decided on 5-10-1982. The qualifying services of the petitioner for pension and other retirement benefits have not been counted in accordance with the decision given inter parties by the Tribunal in the aforesaid appeal. The counsel for the respondent has not disputed the fact that the judgment given by the Gujarat Civil Services Tribunal at Gandhinagar in appeal no.485/80 has attained the finality. This order admittedly has not been challenged by the respondent either before this Court or in any other forum available against it.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner. The inter parties decision given by the Gujarat Civil Services Tribunal, Gandhinagar in Appeal No.485 of 1980 decided on 22-9-1982 is binding on the respondent and the pension and other retirement benefits have to be calculated/determined of the petitioner on the basis of the qualifying services taken as ordered in the aforesaid judgment by the Tribunal. No plausible defence worth acceptance has been put by the respondent in the present case. The judgment of the Tribunal has become final, and as such, it has to be given effect to. The pension and other retirement benefits of the petitioner has to be counted by taking his qualifying services from 28th July, 1945 to 15th March, 1948 and from 16th November, 1948 upto the date of his retirement on superannuation.

4. In the result, this Special Civil Application succeeds in part and the respondent is directed to determine the retirement benefits of the petitioner by taking into consideration his qualifying services from 20th July, 1945 to 15th March, 1948 and from 16th November, 1948 upto his date of retirement on superannuation as per the order in Appeal No.485 of 1980 decided on 5th October, 1982. The respondent is directed

to fix afresh the amount of the retirement benefits and revise his pension within a period of three months from the date of receipt of certified copy of this order. The arrears of fixation of the amount of the retirement benefits and the revised pension should be paid to the petitioner within a period of two months next thereafter. The petitioner shall be entitled for the interest on this amount of arrears of fixation of the retirement benefits inclusive of the pension at the rate of 12% p.a. from the date of filing of this application i.e 1st February, 1984. No order as to costs.

zgs/-